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and Class members*

**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION**

MARK CASSINGHAM, individually and on  
behalf of all others similarly situated,

Plaintiff,

vs.

CINTAS CORPORATE SERVICES, INC.,

Defendant.

Case No.:

**COMPLAINT FOR VIOLATION OF THE  
FLSA AND STATE LAW**

**CLASS ACTION, COLLECTIVE ACTION,  
AND REPRESENTATIVE ACTION**

**DEMAND FOR JURY TRIAL**

Plaintiff Mark Cassingham (“Plaintiff”), on behalf of himself and all others similarly situated, files this class, collective, and representative action (the “Complaint”) against Cintas Corporate Services, Inc. (“Defendant” or “Cintas”), and alleges as follows:

**INTRODUCTION**

1. Cintas is a corporation that “provides highly specialized products and services to over 900,000 customers throughout the United States.” See <http://www.cintas.com/company/> (last visited on 8/14/17). More specifically, Cintas offers fire protection products and services and

1 employs certain nonexempt, hourly-paid workers as Fire Service Technicians (hereinafter  
2 “Technicians”) to install, repair, and/or maintain fire alarm systems located in customers’ homes or  
3 worksites.

4       2. Plaintiff works for Cintas as a non-exempt Technician. Plaintiff brings this action  
5 on behalf of all similarly situated individuals, as set forth in the class definitions in paragraphs 41,  
6 46, and 59 below. Plaintiff and the individuals similarly situated to him are referred to herein  
7 generally as “Class Members” or “Technicians.”

8       3. Cintas maintains and has maintained a policy and practice of failing to pay Plaintiff  
9 and Class Members the correctly calculated overtime rate of time-and-a-half their “regular rate”  
10 and for all hours worked, such as time that they spent traveling to and from the first and last  
11 worksites during the workday or for time spent pre- and post-shift preparing paperwork. Plaintiff  
12 and Class Members spend significant time performing this work off the clock, and Cintas does not  
13 pay them for this time. Because much of this time qualifies as overtime within the meaning of  
14 applicable federal and state laws, Plaintiff and Class Members are owed overtime pay for this time.

15       4. Plaintiff, individually and on behalf of all others similarly situated, seeks to recover  
16 unpaid wages and other damages owed under: (1) the Fair Labor Standards Act (“FLSA”) as a 29  
17 U.S.C. § 216 collective action, (2) California Labor Code §§ 510 and 1194 for unpaid overtime  
18 compensation as a class action pursuant to Rule 23 of the Federal Rules of Civil Procedure, (3)  
19 California Labor Code §§ 1182.12, 1194, 1197, 1194.2 and 1198 for unpaid minimum wages as a  
20 class action pursuant to Rule 23 of the Federal Rules of Civil Procedure, (4) California Labor Code  
21 § 223 for failure to pay wages at the designated rate as a class action pursuant to Rule 23 of the  
22 Federal Rules of Civil Procedure, (5) California Labor Code § 226 for failure to provide accurate  
23 wage statements as a class action pursuant to Rule 23 of the Federal Rules of Civil Procedure, (6)  
24 the Private Attorney General Act (“PAGA”), (7) California Business & Professions Code § 17200  
25 *et seq.* as a class action pursuant to Rule 23 of the Federal Rules of Civil Procedure, and (8)  
26 common law breach of contract.

**JURISDICTION**

5. This Court has jurisdiction over the subject matter of this action under 29 U.S.C. § 216(b) and 28 U.S.C. §§ 1331 and 1367.

6. This Court also has original jurisdiction over this action under the Class Action Fairness Act, 28 U.S.C. § 1332(d). This is a class action in which: (1) there are 100 or more members in the proposed classes; (2) at least some members of the proposed classes have a different citizenship from Defendant; and (3) the claims of the proposed class members exceed \$5,000,000 in the aggregate.

7. This Court has jurisdiction over Plaintiff's state law claims under 28 U.S.C. § 1367 because the state law claim and the federal claim are so closely related that they form part of the same case or controversy under Article III of the United States Constitution.

8. This Court is empowered to issue a declaratory judgment pursuant to 28 U.S.C. §§ 2201 and 2202.

**VENUE**

9. Venue is proper in the Northern District of California because a substantial portion of the events forming the basis of this suit occurred in the Northern District of California.

**INTRADISTRICT ASSIGNMENT**

10. A substantial part of the events or omissions which give rise to the claims occurred in Santa Clara County, and therefore this action is properly assigned to the San Jose Division. N.D. Cal. Local Rule 3-2(c). Cintas employed Plaintiff at its facility in San Jose, California and Plaintiff resides in San Jose.

**PARTIES AND PERSONAL JURISDICTION**

11. Plaintiff Mark Cassingham is an individual currently residing in San Jose, California. Cintas employed Plaintiff Cassingham as a Fire Service Technician from January 29, 2016 to May 19, 2017. Plaintiff Cassingham signed a consent form to join this lawsuit, which is attached as *Exhibit A*.



1           19. Plaintiff and other Technicians are required to sign an acknowledgment with Cintas  
2 that prohibits them from using the vehicle for any personal reasons. The agreement states the  
3 following:

4           **I [Insert Technician's Name], understand a company issued vehicle is not to**  
5 **be used for personal use, company issued vehicles are to be used for company**  
6 **related job assignments and tasks only;** I understand all vehicles are monitored  
7 by a GPS unit which is never to be tampered with. Further, I understand my duty  
8 to ensure vehicle cleanliness and organization at all times, smoking, drinking, and  
9 cell phone use (texting/talking without a Bluetooth device) is never permitted in a  
10 company issued vehicle.

11 ***Exhibit B***, Cintas Vehicle Acknowledgement.

12           20. The primary job duty of Plaintiff and other Technicians is to install, maintain, and  
13 repair fire alarm systems in Cintas' customers' homes or businesses. Plaintiffs are required to use a  
14 Cintas vehicle and uniform to perform their job duties.

15           21. Cintas employs and has employed all Technicians on an hourly, nonexempt basis to  
16 provide these services for its customers.

17           22. Cintas pays Plaintiff Cassingham a regular hourly rate of \$22.00 per hour and an  
18 overtime rate of \$33.00 per hour for hours worked in excess of forty in a single workweek and for  
19 hours in excess of eight (8) hours in a work day.

20           23. Plaintiff and other technicians were treated and held out by Cintas as employees and  
21 they performed job duties that reflected such status.

#### 22 **Pre-Shift Off-the-Clock Work**

23           24. Prior to clocking in, Cintas requires Plaintiff and all other Technicians to perform a  
24 vehicle inspection and to prepare a Driver Vehicle Inspection Report (hereinafter, "Inspection  
25 Report"). The Inspection Reports are prepared at the Technician's home, before the Technician  
26 departs to the location of their first customer. This process takes substantial time each day,  
27 generally between 10 and 15 minutes, for which Cintas fails to pay Plaintiff and all other  
28 Technicians any compensation.

          25. In order to prepare the Inspection Report, Technicians are required to evaluate the  
Cintas-vehicle's oil, tire pressure, lights, wiper and radiator fluids, mirrors, exterior of the vehicle,

1 and brakes, among other things. Plaintiff has attached sample form of an Inspection Report to this  
2 Complaint. *Exhibit C*, Inspection Report.

3 26. Additionally, after Technicians complete the Inspection Report, Cintas maintains a  
4 common policy under which it does not compensate Plaintiff and other Technicians for the time  
5 spent travelling to their first job site in the Cintas work vehicle.

6 27. Upon information and belief, Cintas previously followed a policy pursuant to which  
7 it paid Technicians for the first 50 miles of their drive to their first worksite. However, Cintas  
8 subsequently revised that policy and now compensates Technicians only for drive time to the first  
9 worksite of the day if the drive exceeds one (1) hour. In other words, drives of less than one (1)  
10 hour are unpaid.

11 28. Cintas does not permit Plaintiff and other Technicians to deviate from their route  
12 between completion of the Inspection Report and the drive to the first worksite of the day. During  
13 this time, Plaintiff and other Technicians are under the total control of Cintas.

14 **Post-Shift Off-the-Clock Work**

15 29. After Plaintiff and other Technicians complete their service at the last worksite, they  
16 were required to return the company vehicle to their home. Cintas prohibited Technicians from  
17 making any personal stops on the trip back to their home. Plaintiff and the other Technicians  
18 remain under the total control of Cintas while returning Cintas vehicles to their homes.

19 30. Cintas maintains a common policy in which it does not pay Plaintiff and other  
20 Technicians for the time spent travelling from their last worksite to their home.

21 31. Upon information and belief, Cintas previously followed a policy pursuant to which  
22 it paid Technicians for the first 50 miles of their drive from their last worksite. However, Cintas  
23 subsequently revised that policy and now compensates Technicians only for drive time from the  
24 last worksite of the day if the drive exceeds one (1) hour. In other words, drives of less than one (1)  
25 hour are unpaid.

26 32. After returning to their home, and after clocking out, Plaintiff and other Technicians  
27 are required to prepare another Inspection Report. The Inspection Report requires Technicians to  
28 evaluate the Cintas-vehicle's oil, tire pressure, lights, wiper and radiator fluids, mirrors, exterior of

the vehicle, and brakes, among other things. This process takes substantial time each day, generally between 10 and 15 minutes, for which Cintas fails to pay Plaintiff and all other Technicians any compensation.

#### **Exemplary Pay Periods**

33. Upon information and belief, Cintas pays Plaintiff and all other similarly situated Technicians on a weekly basis. An example of Cintas failing to pay Plaintiff Cassingham overtime for hours worked in excess of 40 hours (as mandated by the FLSA) includes the following:

##### **Pay Period Ending 10-22-16**

- Cintas paid Plaintiff for 40 hours at his regular hourly rate (\$22.00 per hour) and 8 hours at his overtime rate (\$33.00 per hour). *Exhibit D*, Paystubs.
- With at least 20 to 30 minutes per day spent preparing Inspection Reports, in a five-day work week, Plaintiff should have been paid an additional 100 to 150 minutes at his overtime rate.
- Additionally, with a modest estimate of 30 minutes of travel to the first worksite and 30 minutes of travel back from the last worksite, Plaintiff should have been paid an additional 5 hours at his overtime rate for time spent in transit to and from the first and last worksites.

##### **Pay Period Ending 11-05-16**

- Cintas paid Plaintiff for 40 hours at his regular hourly rate (\$22.00 per hour) and 4 hours at his overtime rate (\$33.00 per hour). *Exhibit D*, Paystubs.
- With at least 20 to 30 minutes per day spent preparing Inspection Reports, in a five-day work week, Plaintiff should have been paid an additional 100 to 150 minutes at his overtime rate.
- Additionally, with a modest estimate of 30 minutes of travel to the first worksite and 30 minutes of travel back from the last worksite, Plaintiff should have been paid an additional 5 hours at his overtime rate.
- Additionally, with a modest estimate of 30 minutes of travel to the first worksite and 30 minutes of travel back from the last worksite, Plaintiff should have been paid an additional 5 hours at his overtime rate for time spent in transit to and from the first and last worksites.

#### **Cintas Benefitted from the Uncompensated Off-the-Clock Work**

34. At all relevant times, Cintas directed and directly benefited from the work performed by Plaintiff and similarly situated employees in connection with the above described pre-shift and post-shift activities performed by Plaintiff and other technicians.

35. At all relevant times, Cintas controlled the work schedules, duties, protocols, assignments and employment conditions of Plaintiff and other Technicians.

36. At all relevant times, Cintas was able to track the amount of time Plaintiff and the other Technicians spent in connection with pre-shift and post-shift activities. However, Cintas failed to do so and failed to compensate Plaintiff and other Technicians for the off-the-clock work they performed.

37. At all relevant times, Cintas' policies and practices deprived Plaintiff and the other Technicians of wages owed for pre-shift and post-shift activities they performed. Because Cintas' Technicians typically worked forty (40) hour or more in a workweek, Cintas' policies and practices also deprived them of overtime pay.

38. Cintas knew or should have known that the time spent by Plaintiff and other Technicians in connection with the pre-shift and post-shift activities is compensable under the law.

39. Despite knowing Plaintiff and other Technicians performed work before and after their scheduled shifts, Cintas failed to make any effort to stop or disallow the off-the-clock work and instead suffered, permitted, and even ordered it to happen.

40. Unpaid wages related to the off-the-clock work described herein is owed to Plaintiff and other Technicians at the FLSA mandated overtime premium of one and one-half their regular hourly rate because Plaintiff and the other Technicians regularly worked in excess of forty (40) hours in a workweek.

### **FLSA COLLECTIVE ACTION ALLEGATIONS**

41. Plaintiff brings this action pursuant to 29 U.S.C. § 216(b) of the FLSA on his own behalf and on behalf of:

*All current and former Technicians who worked for Cintas at any time after August 29, 2014 and through the date of Judgment.*

(Hereinafter referred to as the "Collective.") Plaintiff reserves the right to amend this definition as necessary.

42. Excluded from the proposed Collective are Cintas' executives, administrative and professional employees, including computer professionals and outside sales persons.

43. With respect to the claims set forth in this action, a collective action under the FLSA is appropriate because the employees described above are "similarly situated" to Plaintiff under 29



1 U.S.C. § 216(b). The class of employees on behalf of whom Plaintiff brings this collective action  
 2 are similarly situated because: (a) they have been or are employed in the same or similar positions;  
 3 (b) they were or are subject to the same or similar unlawful practices, policy, or plan; and (c) their  
 4 claims are based upon the same factual and legal theories.

5 44. The employment relationships between Cintas and every Collective member is the  
 6 same and differ only by name, location, and rate of pay. The key issues – whether Cintas failed to  
 7 pay Technicians for all hours worked, including pre- and post-shift work activities and whether  
 8 such time is compensable – do not vary substantially among the Collective members.

9 45. Plaintiff estimates the Collective, including both current and former employees over  
 10 the relevant period, will include several thousand members. The precise number of Collective  
 11 members should be readily available from a review of Cintas’ personnel and payroll records.

### 12 **RULE 23 NATIONWIDE CLASS ACTION ALLEGATIONS**

13 46. Plaintiff brings this action pursuant to Fed R. Civ. P. 23(b)(2) and (b)(3) on their  
 14 own behalf and on behalf of:

15 *All current and former Technicians who worked for Cintas at any time*  
 16 *after August 29, 2014 and through the date of Judgment.*

17 (hereinafter referred to as the “Rule 23 Nationwide Class”). Plaintiff reserves the right to amend  
 18 this definition as necessary.

19 47. The members of the Rule 23 Nationwide Class are so numerous that joinder of all  
 20 Rule 23 Nationwide Class members in this case would be impractical. Plaintiff reasonably  
 21 estimates there are thousands of Rule 23 Nationwide Class members. Rule 23 Nationwide Class  
 22 members should be easy to identify from Cintas’ computer systems and electronic payroll and  
 23 personnel records.

24 48. Commonality. There is a well-defined community of interest among Rule 23  
 25 Nationwide members and common questions of law and fact predominate in this action over any  
 26 questions affecting individual members of the Rule 23 Nationwide Class. These common legal and  
 27 factual questions, include, but are not limited to, the following:  
 28

- a. Whether the pre- and post-shift time spent by the Rule 23 Nationwide Class members on the preparation of Inspection Reports is compensable time;
- b. Whether the pre- and post-shift time spent by the Rule 23 Nationwide Class members travelling to the first worksite of the day is compensable time;
- c. Whether the pre- and post-shift time spent by the Rule 23 Nationwide Class members travelling from the last worksite of the day is compensable time; and
- d. Whether Cintas' failure to compensate the Rule 23 Nationwide Class members for these essential work activities amounts to a breach of contract.

49. Numerosity. Plaintiff estimates the size of the Rule 23 Nationwide Class to be in excess of 1000 individuals. This size makes bringing the claims of each individual member of the class before this Court impracticable. Likewise, joining each individual member of the Rule 23 Nationwide Class as a plaintiff in this action is impracticable. The identity of the members of the Rule 23 Nationwide Class will be determined from Cintas' records, as will the compensation paid to each of them. As such, a class action is a reasonable and practical means of resolving these claims. To require individual actions would prejudice the Rule 23 Nationwide Class and Cintas.

50. Typicality. Plaintiff's claims are typical of those of the Rule 23 Nationwide Class in that they and all other Rule 23 Nationwide Class members suffered damages as a direct and proximate result of the Cintas' common and systemic payroll policies and practices. Plaintiff's claims arise from the same pay policies, practices, promises and course of conduct as all other Rule 23 Nationwide Class members' claims and her legal theories are based on the same legal theories as all other Rule 23 Nationwide Class members.

51. Adequacy. Plaintiff will fully and adequately protect the interests of the Rule 23 Nationwide Class and have retained counsel who are qualified and experienced in the prosecution of nationwide wage and hour class actions. Neither Plaintiff nor their counsel have interests that are contrary to, or conflicting with, the interests of the Rule 23 Nationwide Class.

52. Superiority. A class action is superior to other available methods for the fair and efficient adjudication of this controversy, because, *inter alia*, it is economically infeasible for Rule 23 Nationwide Class members to prosecute individual actions of their own given the relatively small amount of damages at stake for each individual along with the fear of reprisal by their

1 employer. Prosecution of this case as a Rule 23 Class action will also eliminate the possibility of  
2 duplicative lawsuits being filed in state and federal courts throughout the nation.

3       53.     Manageability. This case will be manageable as a Rule 23 Class action. Plaintiff  
4 and her counsel know of no unusual difficulties in this case and Cintas has advanced, networked  
5 computer and payroll systems that will allow the class, wage, and damages issues in this case to be  
6 resolved with relative ease. By concentrating this litigation in one forum, judicial economy and  
7 parity among the claims of individual Rule 23 Nationwide Class members will be promoted.  
8 Additionally, class treatment in this matter will provide for judicial consistency.

9       54.     Notice of the pendency and any resolution of this action can be provided to the Rule  
10 23 Nationwide Class by mail, electronic mail, text message, print, broadcast, internet and/or  
11 multimedia publication. The identity of members of the Rule 23 Nationwide Class is readily  
12 identifiable from Cintas' records.

13       55.     This type of case is well-suited for class action treatment because: (1) Cintas'  
14 practices, policies, and/or procedures were uniform; (2) the burden is on Cintas to prove that it  
15 properly compensated Plaintiff and Class Members; and (3) the burden is on Cintas to accurately  
16 record hours worked by employees.

17       56.     Because the elements of Rule 23(b)(3) are satisfied in this case, class certification is  
18 appropriate. *Shady Grove Orthopedic Assoc., P.A. v. Allstate Ins. Co.*, 559 U.S. 393; 130 S. Ct.  
19 1431, 1437 (2010) (“[b]y its terms [Rule 23] creates a categorical rule entitling a plaintiff whose  
20 suit meets the specified criteria to pursue his claim as a class action”).

21       57.     Because Cintas acted and refused to act on grounds that apply generally to the Rule  
22 23 Nationwide Class and declaratory relief is appropriate in this case with respect to the Rule 23  
23 Nationwide Class as a whole, class certification pursuant to Rule 23(b)(2) is also appropriate

24       58.     Ultimately, a class action is a superior form to resolve the breach of contract claims  
25 detailed herein because of the common nucleus of operative facts centered on the continued failure  
26 of Cintas' to pay Plaintiff and the Rule 23 Nationwide Class as agreed.

**RULE 23 CALIFORNIA CLASS ACTION ALLEGATIONS**

59. Plaintiff brings this action pursuant to Fed R. Civ. P. 23(b)(2) and (b)(3) on their own behalf and on behalf of:

*All current and former Technicians who worked for Cintas in California at any time after August 29, 2013 and through the date of Judgment.*

(hereinafter referred to as the “Rule 23 California Class”). Plaintiff reserves the right to amend this definition as necessary.

60. The members of the Rule 23 California Class are so numerous that joinder of all Rule 23 California Class members in this case would be impractical. Plaintiff reasonably estimates there are hundreds of Rule 23 California Class members. Rule 23 California Class members should be easy to identify from Cintas’ computer systems and electronic payroll and personnel records.

61. Commonality. There is a well-defined community of interest among Rule 23 California members and common questions of law and fact predominate in this action over any questions affecting individual members of the Rule 23 California Class. These common legal and factual questions, include, but are not limited to, the following:

a. Whether the pre- and post-shift time spent by the Rule 23 California Class members on the preparation of Inspection Reports is compensable time;

b. Whether the pre- and post-shift time spent by the Rule 23 California Class members travelling to the first worksite of the day is compensable time;

c. Whether the pre- and post-shift time spent by the Rule 23 California Class members travelling from the last worksite of the day is compensable time; and

d. Whether Cintas’ failure to compensate the Rule 23 California Class members for these essential work activities amounts to a violation of California labor and employment laws.

62. Numerosity. Plaintiff estimates the size of the Rule 23 California Class to be in excess of 100 individuals. This size makes bringing the claims of each individual member of the class before this Court impracticable. Likewise, joining each individual member of the Rule 23 California Class as a plaintiff in this action is impracticable. The identity of the members of the Rule 23 California Class will be determined from Cintas’ records, as will the compensation paid to

1 each of them. As such, a class action is a reasonable and practical means of resolving these claims.  
2 To require individual actions would prejudice the Rule 23 California Class and Cintas.

3 63. Typicality. Plaintiff's claims are typical of those of the Rule 23 California Class in  
4 that they and all other Rule 23 California Class members suffered damages as a direct and  
5 proximate result of the Cintas' common and systemic payroll policies and practices. Plaintiff's  
6 claims arise from the same pay policies, practices, promises and course of conduct as all other Rule  
7 23 California Class members' claims and his legal theories are based on the same legal theories as  
8 all other Rule 23 California Class members.

9 64. Adequacy. Plaintiff will fully and adequately protect the interests of the Rule 23  
10 California Class and have retained counsel who are qualified and experienced in the prosecution of  
11 nationwide wage and hour class actions, including California state law wage and hour claims.  
12 Neither Plaintiff nor their counsel have interests that are contrary to, or conflicting with, the  
13 interests of the Rule 23 California Class.

14 65. Superiority. A class action is superior to other available methods for the fair and  
15 efficient adjudication of this controversy, because, *inter alia*, it is economically infeasible for Rule  
16 23 California Class members to prosecute individual actions of their own given the relatively small  
17 amount of damages at stake for each individual along with the fear of reprisal by their employer.  
18 Prosecution of this case as a Rule 23 Class action will also eliminate the possibility of duplicative  
19 lawsuits being filed in state and federal courts throughout the nation.

20 66. Manageability. This case will be manageable as a Rule 23 Class action. Plaintiff  
21 and her counsel know of no unusual difficulties in this case and Cintas has advanced, networked  
22 computer and payroll systems that will allow the class, wage, and damages issues in this case to be  
23 resolved with relative ease. By concentrating this litigation in one forum, judicial economy and  
24 parity among the claims of individual Rule 23 California Class members will be promoted.  
25 Additionally, class treatment in this matter will provide for judicial consistency.

26 67. Notice of the pendency and any resolution of this action can be provided to the Rule  
27 23 California Class by mail, electronic mail, text message, print, broadcast, internet and/or  
28

1 multimedia publication. The identity of members of the Rule 23 California Class is readily  
2 identifiable from Cintas' records.

3 68. This type of case is well-suited for class action treatment because: (1) Cintas'  
4 practices, policies, and/or procedures were uniform; (2) the burden is on Cintas to prove that it  
5 properly compensated Plaintiff and the Class Members; and (3) the burden is on Cintas to  
6 accurately record hours worked by employees.

7 69. Because the elements of Rule 23(b)(3) are satisfied in this case, class certification is  
8 appropriate. *Shady Grove Orthopedic Assoc., P.A. v. Allstate Ins. Co.*, 559 U.S. 393; 130 S. Ct.  
9 1431, 1437 (2010) (“[b]y its terms [Rule 23] creates a categorical rule entitling a plaintiff whose  
10 suit meets the specified criteria to pursue his claim as a class action”).

11 70. Because Cintas acted and refused to act on grounds that apply generally to the Rule  
12 23 California Class and declaratory relief is appropriate in this case with respect to the Rule 23  
13 California Class as a whole, class certification pursuant to Rule 23(b)(2) is also appropriate

14 71. Ultimately, a class action is a superior form to resolve the breach of contract claims  
15 detailed herein because of the common nucleus of operative facts centered on the continued failure  
16 of Cintas' to pay Plaintiff and the Rule 23 California Class as agreed.

17 **FIRST CAUSE OF ACTION**  
18 **NATIONWIDE: Failure To Pay Overtime**  
19 **(Fair Labor Standards Act, 29 U.S.C. § 201 *et seq.*)**  
20 **On Behalf of Plaintiff and the FLSA Collective**

21 72. Plaintiff incorporates all other paragraphs as though fully set forth herein.

22 73. At all times relevant to this action, Cintas was an employer under 29 U.S.C. § 203(d)  
23 of the FLSA, subject to the provisions of 29 U.S.C. § 201, *et seq.*

24 74. At all relevant times to this action, Cintas has engaged in interstate commerce or in  
25 the production of goods for commerce, as defined by the FLSA.

26 75. At all times relevant to this action, Plaintiff and the members of the Collective were  
27 “employees” of Cintas within the meaning of 29 U.S.C. § 203(e)(1) of the FLSA.  
28

1           76. Plaintiff and the members of the Collective were either (1) engaged in commerce; or  
2 (2) engaged in the production of goods for commerce; or (3) employed in an enterprise engaged in  
3 commerce or in the production of goods for commerce.

4           77. Cintas has had, and continues to have, an annual gross business volume in excess of  
5 \$500,000.

6           78. At all times relevant to this action, Cintas “suffered or permitted” Plaintiff and all  
7 similarly situated current and former employees to work and thus “employed” them within the  
8 meaning of 29 U.S.C. § 203(g) of the FLSA.

9           79. The FLSA requires each covered employer such as Cintas to compensate all  
10 nonexempt employees at a rate of not less than one-and-a-half times their “regular rate” of pay for  
11 work performed in excess of forty hours in a workweek.

12           80. Cintas failed to pay Plaintiff and the FLSA Collective all overtime pay due by  
13 failing to incorporate time spent preparing Inspection Reports into the calculation of their hours  
14 worked. Plaintiff estimates that he and other Technicians spent between twenty (20) to thirty (30)  
15 minutes per shift performing uncompensated work related to the preparation of inspection reports.

16           81. In addition, Cintas did not pay Plaintiff and the FLSA Collective for the time spent  
17 traveling to the first worksite of the day (after the start-of-day Inspection Report was completed)  
18 and from the last worksite of the day (before the end-of-day Inspection Report was completed),  
19 even though this travel time occurred during the course of their workdays. During this time,  
20 Plaintiff and FLSA Collective were under the total control of Cintas. Much of this time qualifies as  
21 overtime hours worked, but Cintas did not pay overtime compensation to Plaintiff and the FLSA  
22 Collective for this time worked.

23           82. Plaintiff and the FLSA Collective were entitled to be paid overtime compensation  
24 for all overtime hours worked at the rate of one and one-half times their “regular rate” of pay.

25           83. At all relevant times, Cintas required Plaintiff and the FLSA Collective to work in  
26 excess of forty hours per workweek. Despite the hours worked by them, Cintas willfully, in bad  
27 faith, and in knowing violation of the FLSA, failed and refused to pay Plaintiff and the FLSA  
28 Collective the appropriate overtime wages for all compensable time worked in excess of forty



1 hours per workweek. By failing to compensate Plaintiff and the FLSA Collective at a rate of not  
 2 less than one-and-a-half times the “regular rate” of pay for work performed in excess of forty hours  
 3 in a workweek, Cintas has violated the FLSA, 29 U.S.C. § 201 *et seq.*, including 29 U.S.C.  
 4 § 207(a)(1) and § 215(a).

5 84. Plaintiff, on behalf of himself and the FLSA Collective, seek recovery of their  
 6 damages, unpaid wages and unpaid overtime pay.

7 85. The foregoing conduct, as alleged, constitutes a willful violation of the FLSA within  
 8 the meaning of 29 U.S.C. § 255(a).

9 86. Plaintiff, on behalf of themselves and the FLSA Collective, seek recovery of their  
 10 attorneys’ fees and costs to be paid by Cintas, as provided for by 29 U.S.C. § 216(b).

11 87. Plaintiff, on behalf of themselves and the FLSA Collective, seek recovery of  
 12 liquidated damages.

13 88. As a result of Cintas’ willful and unlawful failure to pay Plaintiff all of his earned  
 14 overtime wages, Plaintiff is entitled to recover his unpaid overtime wages, costs and reasonable  
 15 attorneys’ fees, and the relief requested below in the Prayer for Relief. Plaintiff, on behalf of  
 16 himself and the FLSA Collective, seeks damages in the amount of the respective unpaid overtime  
 17 compensation owed, liquidated damages from three years immediately preceding the filing of this  
 18 action, plus interest and costs as allowed by law, pursuant to 29 U.S.C. §§ 216(b) and 255(a), and  
 19 such other legal and equitable relief as the Court deems just and proper.

20 **SECOND CAUSE OF ACTION**  
 21 **CALIFORNIA: Failure To Pay Overtime**  
 22 **(California Labor Code §§ 510 and 1194)**  
**On Behalf of Plaintiff and the California Class**

23 89. Plaintiff incorporates all other paragraphs as though fully set forth herein.

24 90. At all relevant times, Cintas was required to compensate its nonexempt employees  
 25 for all hours worked. Since at least four years prior to this lawsuit being filed to the present, Cintas  
 26 was required to compensate all of its employees for all overtime worked at one-and-a-half times  
 27 their “regular rates” of pay for hours worked in excess of eight hours per day or forty hours per  
 28 workweek and double-time for hours worked in excess of twelve (12) hours per day. Cintas was



1 also required to pay one-and-a-half times the “regular rate” for the first eight hours worked on the  
2 seventh day of a workweek.

3 91. Cintas failed to pay Plaintiff and the California Class Members all overtime and  
4 double-time pay due by failing to incorporate the time spent preparing Inspection Reports and  
5 travel time to and from their first and last work sites into the calculation of their regular rate.

6 92. Despite the provisions of California’s overtime law, Cintas has willfully failed and  
7 refused to pay the California Class, including Plaintiff, overtime wages for all of the overtime hours  
8 they worked.

9 93. The California Class Members, including Plaintiff, have been deprived of their  
10 rightfully earned overtime wages as a direct and proximate result of Cintas’ failure and refusal to  
11 pay such compensation.

12 94. Cintas’ conduct violates California Labor Code §§ 510 and 1194. Therefore,  
13 pursuant to California Labor Code § 1194, the California Class Members, including Plaintiff, are  
14 entitled to recover, and seek to recover, damages for the nonpayment of overtime wages for all  
15 overtime hours worked in excess of eight hours per day, in excess of forty hours per workweek, for  
16 the first eight hours worked on the seventh day of a workweek, and double-time pay for the hours  
17 worked in excess of twelve in a day in addition to interest on such amounts pursuant to California  
18 Labor Code § 1194, plus reasonable attorneys’ fees and costs of suit, and the relief requested below  
19 in the Prayer for Relief.

20 **THIRD CAUSE OF ACTION**  
21 **CALIFORNIA: Failure To Pay Minimum Wage**  
22 **(California Labor Code §§ 1182.12, 1194, 1197, 1194.2 and 1198)**  
23 **On Behalf of Plaintiff and the California Class**

24 95. Plaintiff incorporates all other paragraphs as though fully set forth herein.

25 96. At all relevant times, Plaintiff and the California Class Members earned “wages” for  
26 labor or services rendered to Cintas within the meaning of California Labor Code § 200(a) and/or  
27 “hours worked” within the meaning of the applicable Wage Order of the Industrial Wage  
28 Commission.

1           97. Employers are required to pay their employees for all hours worked. During all  
 2 relevant times, Cintas failed to properly pay Plaintiff and the California Class Members for all the  
 3 hours they worked and/or were subject to Cintas' control. Specifically, Cintas failed to properly  
 4 record all hours worked by the California Class Members. For example, Cintas allowed,  
 5 encouraged, or required Plaintiff and California Class Members to prepare Inspection Reports at  
 6 the start and end of their shift while off the clock. After or before the preparation of the daily  
 7 Inspection Reports, Cintas also allowed, encouraged, or required Plaintiff and California Class  
 8 Members to drive to the first worksite of the day and from the last worksite of the day while under  
 9 the complete control of Cintas and while clocked out.

10           98. Cintas improperly withheld, deducted, and/or refused to pay wages for hours that  
 11 Plaintiff and the California Class Members worked.

12           99. Cintas' conduct deprived Plaintiff and the California Class Members of full and  
 13 timely payment for all hours worked in violation of the California Labor Code.

14           100. Cintas did not pay Plaintiff and the California Class Members for all hours worked  
 15 and did not properly pay Plaintiff and the California Class Members, in violation of California  
 16 Labor Code §§ 1182.12, 1194, 1197, and/or 1198.

17           101. As a result of Cintas' willful and unlawful failure to pay Plaintiff and the California  
 18 Class Members their earned wages, Plaintiff and the California Class Members are entitled to  
 19 recover their unpaid wages, liquidated damages, costs and reasonable attorneys' fees, and the relief  
 20 requested below in the Prayer for Relief.

21                                   **FOURTH CAUSE OF ACTION**  
 22                                   **CALIFORNIA: Payment of Wage Below Designated Rate**  
    **(California Labor Code § 223)**  
 23                                   **On Behalf of Plaintiff and the California Class**

24           102. Plaintiff incorporates all other paragraphs as though fully set forth herein.

25           103. California Labor Code § 223 provides that "[w]here any statute or contract requires  
 26 an employer to maintain the designated wage scale, it shall be unlawful to secretly pay a lower  
 27 wage while purporting to pay the wage designated by statute or by contract."  
 28



1 provision by providing Plaintiff and members of the California Class with wage statements that  
 2 systematically undercounted the number of hours that Plaintiff and members of the California Class  
 3 worked. Cintas is therefore liable to Plaintiff and the members of the California Class for  
 4 providing inaccurate wage statements in violation of Labor Code § 226.

5 112. Plaintiff, individually and on behalf of the members of the California Class,  
 6 respectfully request that the Court award all penalties due and the relief requested below in the  
 7 Prayer for Relief.

8 **SIXTH CAUSE OF ACTION**  
 9 **California PAGA Claims**  
 10 **(California Labor Code §§ 2698 - 2699.5)**  
 11 **On Behalf of Plaintiff Cassingham and aggrieved employees**

12 113. Plaintiff incorporates all other paragraphs as though fully set forth herein.

13 114. Under the California Private Attorneys General Act (“PAGA”) of 2006, Cal. Labor  
 14 Code §§ 2698-2699.5, an aggrieved employee, on behalf of himself or herself and other current or  
 15 former employees as well as the general public, may bring a representative action as a private  
 16 attorney general to recover penalties for an employer’s violations of the California Labor Code and  
 17 IWC Wage Orders. These civil penalties are in addition to any other relief available under the Cal.  
 18 Labor Code, and must be allocated 75% to California’s Labor and Workforce Development  
 19 Agency and 25% to the aggrieved employee, pursuant to Cal. Labor Code § 2699.

20 115. Pursuant to Cal. Labor Code § 1198, Cintas’ failure to pay proper compensation to  
 21 Plaintiff and the California Class Members, and failure to provide Class Members with accurate  
 22 wage statements constitutes violations of the Cal. Labor Code, each actionable under PAGA.

23 116. Plaintiff alleges, on behalf of himself and the California Class, as well as the general  
 24 public, that Cintas has violated the following provisions of the Cal. Labor Code and the following  
 25 provisions of Cal. Wage Orders that are actionable through the Cal. Labor Code and PAGA, as  
 26 previously alleged herein: Cal. Labor Code §§ 510, 1194, Cal. Labor Code §§ 1182.12, 1194, 1197,  
 27 1194.2 1198, Cal. Labor Code § 223, Cal. Labor Code §§ 201-203, 205, and Cal. Labor Code §§  
 28 226 & 2802. Each of these violations entitles Plaintiff, as private attorney general, to recover the

1 applicable statutory civil penalties on their own behalf, on behalf of all aggrieved employees, and  
 2 on behalf of the general public.

3 117. Cal. Labor Code § 2699(a), which is part of PAGA, provides in pertinent part:

4 Notwithstanding any other provision of law, any provision of this code that provides  
 5 for a civil penalty to be assessed and collected by the Labor and Workforce  
 6 Development Agency or any of its departments, divisions, commissions, boards,  
 7 agencies, or employees, for a violation of this code, may, as an alternative, be  
 8 recovered through a civil action brought by an aggrieved employee on behalf of  
 himself or herself and other current or former employees pursuant to the procedures  
 specified in § 2699.3.

9 118. Cal. Labor Code § 2699(f), which is part of PAGA, provides in pertinent part:

10 For all provisions of this code except those for which a civil penalty is specifically  
 11 provided, there is established a civil penalty for a violation of these provisions, as  
 12 follows: ... (2) If, at the time of the alleged violation, the person employs one or  
 13 more employees, the civil penalty is one hundred dollars (\$100) for each aggrieved  
 employee per pay period for the initial violation and two hundred dollars (\$200) for  
 each aggrieved employee per pay period for each subsequent violation.

14 119. Plaintiff is entitled to civil penalties, to be paid by Cintas and allocated as PAGA  
 15 requires, pursuant to Cal. Labor Code § 2699(a) for Cintas' violations of the Cal. Labor Code and  
 16 IWC Wage Orders for which violations a civil penalty is already specifically provided by law.  
 17 Further, Plaintiff is entitled to civil penalties, to be paid by Cintas and allocated as PAGA requires,  
 18 pursuant to Cal. Labor Code § 2699(f) for Cintas' violations of the Cal. Labor Code and IWC  
 19 Wage Orders for which violations a civil penalty is not already specifically provided.

20 120. On August 7, 2017, Plaintiff provided written notice by certified mail to the  
 21 California Labor & Workforce Development Agency ("LWDA") and to Cintas of the legal claims  
 22 and theories of his claims in this case. The LWDA did not respond to the letter.

23 121. Under PAGA, Plaintiff and the State of California are entitled to recover the  
 24 maximum civil penalties permitted by law for the violations of the Cal. Labor Code that are alleged  
 25 in this Complaint, including but not limited to penalties pursuant to Labor Code §§ 210, 225.5,  
 26 226.3, 558, 1174.5, 1197.1, and 2699 (f).

27 122. Plaintiff, on behalf of himself and all California Class Members, also request further  
 28 relief set forth herein.

**SEVENTH CAUSE OF ACTION**  
**CALIFORNIA: Unlawful and/or Unfair Competition Law Violations**  
**(California Business & Professions Code § 17200 *et seq.*)**  
**On Behalf of Plaintiff and the California Class**

123. Plaintiff incorporates all other paragraphs as though fully set forth herein.

124. California Business & Professions Code § 17200 *et seq.* prohibits unfair competition in the form of any unlawful, unfair, deceptive, or fraudulent business practices.

125. Plaintiff brings this cause of action individually and as a representative of all others subject to Cintas' unlawful acts and practices.

126. During all relevant times, Cintas committed unlawful, unfair, and/or fraudulent acts as defined by California Business & Professions Code § 17200. Cintas' unlawful, unfair, and/or fraudulent business practices include, without limitation, failing to pay overtime wages, failing to pay overtime wages at the correct rate, failing to pay minimum wages, failing to pay wages at the designated rate, and failing to provide employees with accurate wage statements.

127. As a result of these unlawful and/or unfair and/or fraudulent business practices, Cintas reaped unfair benefits and illegal profits at the expense of Plaintiff and the California Class. Cintas must disgorge these ill-gotten gains and restore to Plaintiff and the California Class Members all wrongfully withheld wages, including, but not limited to minimum wages and overtime compensation.

128. Plaintiff, individually and on behalf of the members of the California Class, respectfully requests that judgment be awarded to provide restitution and interest, and the relief requested below in the Prayer for Relief.

**EIGHTH CAUSE OF ACTION**  
**NATIONWIDE: Breach of Contract**  
**On Behalf of Plaintiff and the Rule 23 Nationwide Class**

129. Plaintiff incorporates all other paragraphs as though fully stated herein.

130. At all times relevant to this action, Cintas had contracts with Plaintiff and every other Rule 23 Nationwide Class Member to pay each employee for each hour they worked at a pre-established (contractual) regular hourly rate.



- 1 B. Declaring that Cintas' policies and/or practices of failing to pay overtime wages, to  
2 pay minimum wages, to pay wages at the designated rate, and to provide and  
3 accurate wage statements violate the FLSA and/or California law;
- 4 C. Declaring that Cintas' above-mentioned policies and/or practices violate California  
5 Business and Professions Code § 17200 *et seq.*;
- 6 D. Preliminary, permanent, mandatory injunctive relief prohibiting Cintas, its officers,  
7 agents, and all those acting in concert with it, from committing in the future those  
8 violations of law herein alleged;
- 9 E. Declaring that Cintas' policies and/or practices of failing to pay overtime wages to  
10 the FLSA Collective Members violates the FLSA;
- 11 F. Awarding damages, liquidated damages, restitution, and/or statutory and civil  
12 penalties and interest thereon as allowed by law to be paid by Cintas for the causes  
13 of action alleged herein;
- 14 G. Awarding costs and expenses, including reasonable attorneys' fees and expert fees,  
15 pursuant to 29 U.S.C. § 216, state law, and as otherwise permitted by law;
- 16 H. Awarding class representative service payments to Plaintiff and all other class  
17 representatives for their service to the FLSA Collective Members, the Class  
18 Members, and the public; and
- 19 I. Ordering such other and further legal and equitable relief the Court deems just,  
20 necessary and proper.

21 Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiff, on behalf of  
22 himself and all others similarly situated, respectfully demand a trial by jury.  
23  
24  
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27  
28



1 DATED: August 29, 2017

By: /s/ Kevin J. Stoops

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